

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

HASBRO, INC.,

Plaintiff,

-against-

INFOGRAMES ENTERTAINMENT, S.A. a/k/a  
ATARI, S.A.,

Defendant.

C.A. No. 09 Civ. 610 (S) (LDA)

**DECLARATION OF JAMES M. PEARL**

I, James M. Pearl, declare and state:

1. I am a member of the State Bar of California and am admitted to practice before the Courts of that State and the Central District of California. I am admitted *pro hac vice* to the District of Rhode Island. I am a partner of the law firm of O'Melveny & Myers LLP, counsel of record for Plaintiff and Counterclaim-Defendant Hasbro, Inc. ("Hasbro"), in the above-captioned action. I make this declaration in support of Hasbro's Motion to Compel Production of Documents and Interrogatory Responses and to Determine the Sufficiency of Atari's Answers and Objections to Requests for Admission (the "Motion"). I have personal knowledge of the matters stated herein, and I could and would testify competently to them if called as a witness.

2. Attached hereto as Exhibit 1 is a true and correct copy of Hasbro's First Set of Request for Admissions to Atari, S.A. ("Atari"), served on October 12, 2010.

3. Attached hereto as Exhibit 2 is a true and correct copy of Atari's Responses and Objections to Hasbro's First Set of Requests for Admissions, served on November 15, 2010.

4. Attached hereto as Exhibit 3 is a true and correct copy of Hasbro's First Set of Interrogatories to Atari, served on October 13, 2010.

5. Attached hereto as Exhibit 4 is a true and correct copy of Atari's Responses and Objections to Hasbro's First Set of Interrogatories, served on November 15, 2010.

6. Attached hereto as Exhibit 5 is a true and correct copy of Hasbro's Second Request for the Production of Documents to Atari, served on October 13, 2010.

7. Attached hereto as Exhibit 6 is a true and correct copy of Atari's Responses and Objections to Hasbro's Second Request for the Production of Documents, served on November 15, 2010.

8. Attached hereto as Exhibit 7 is a true and correct copy of Hasbro's Objections and Responses to Atari's First Set of Interrogatories, served on November 18, 2010.

9. Attached hereto as Exhibit 8 is a true and correct copy of my January 10, 2011 letter to Atari's counsel, Mr. Herbert C. Ross, identifying and explaining the deficiencies in Atari's November 15, 2010 discovery responses.

10. On Thursday, January 13, 2011, I participated in a lengthy "meet and confer" conference call with counsel for Atari concerning, among other things, Atari's Responses and Objections to Hasbro's First Set of Requests for Admissions, Hasbro's First Set of Interrogatories and Hasbro's Second Request for the Production of Documents. Attached hereto as Exhibit 9 is a true and correct copy of my January 14, 2011 letter to Mr. Herbert C. Ross memorializing the parties' January 13, 2011 conference call.

11. As memorialized in my January 14, 2011 letter, during the January 13, 2011 call Atari's counsel promised to confer with their client and to advise Hasbro by Tuesday, January 18, 2011 whether Atari would reconsider its objections and provide substantive responses to Hasbro's First Set of Interrogatories. On January 18, 2011, Mr. Herbert C. Ross indicated to me by telephone that some of the information sought by Hasbro's interrogatories was allegedly submitted and

available to Hasbro, and therefore Atari does not believe it needs to compile that information.

Attached hereto as Exhibit 10 is a true and correct copy of my January 20, 2011 letter to Mr.

Herbert C. Ross, identifying and explaining the deficiencies in Atari's position and argument.

12. Attached hereto as Exhibit 11 is a true and correct copy of a January 26, 2011 letter sent to me by Atari's counsel, Mr. Ross, responding to my January 20, 2011 letter and suggesting a proposal to resolve the dispute as to Atari's responses to Hasbro's First Set of Interrogatories.

13. Attached hereto as Exhibit 12 is a true and correct copy of my January 28, 2011 letter to Mr. Ross identifying and explaining the deficiencies in the proposal set forth in Mr. Ross's January 26, 2011 letter, and confirming that the parties are at an impasse.

14. On January 31, 2011, I spoke with Atari's counsel, Mr. Ross, to seek Atari's agreement that the Motion be heard by the Magistrate Judge on February 28, 2011 at 11:00 a.m. Mr. Ross indicated his agreement with this proposal.

Executed in Los Angeles, California on this 31st day of January 2011.

By:   
James M. Pearl

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of January 2011, an electronic copy of the within document was served upon the following counsel of record via the PACER/ECF system:

Brooks R. Magratten, Esq.  
[bmagratten@pierceatwood.com](mailto:bmagratten@pierceatwood.com)  
Michael J. Daly, Esq.  
[mdaly@pierceatwood.com](mailto:mdaly@pierceatwood.com)  
Pierce Atwood LLP  
10 Weybosset Street, Suite 400  
Providence, RI 02903

Kyle C. Bisceglie, Esq.  
[Kbisceglie@olshanlaw.com](mailto:Kbisceglie@olshanlaw.com)  
Herbert C. Ross, Esq.  
[hross@olshanlaw.com](mailto:hross@olshanlaw.com)  
Peter M. Sartorius  
[psartorius@olshanlaw.com](mailto:psartorius@olshanlaw.com)  
Olshan Grundman Frome Rosenzweig & Wolosky LLP  
Park Avenue Tower  
65 East 55<sup>th</sup> Street  
New York, NY 10022

/s/ Todd D. White

Todd D. White